51. Annual leave with wages.—(*1*) Every person employed in a mine who has completed a period of twelve months' continuous service therein shall be allowed, during the subsequent period of twelve months, leave with full pay or wages based on the average pay or wages for the twelve months immediately preceding the leave, as provided in section 52, and such leave shall be calculated at the rate of—

(*i*) if he is an employee paid by the month, fourteen consecutive days for such period of twelve months:

(*ii*) if he is an employee paid by the week, or a loader, or other person employed below ground on a piece-rate basis, seven consecutive days for such period of twelve months.

(*2*) The twelve months' continuous service referred to in sub-section (*1*) shall be deemed to have been completed.—

(*a*) in the case of a loader, or other person employed below ground on a piece-rate basis, if he has during the said period of twelve months put in not less than one hundred and ninety attendances at the mine;

(*b*) in the case of a person employed above ground on a piece-rate basis or in the case of any other person who is paid by the month, week or day, if he has during the said twelve months put in not less than two hundred and sixty-five attendances at the mine.

Explanation.—In either of the above cases the period of leave shall be inclusive of the weekly days of rest and any holiday (if granted) which may occur during such period.

(*3*) If any person employed in a mine who is paid by the month does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (*1*), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be accumulated by any such person shall not exceed twenty-eight days in all.

(*4*) Any such person may, during any such period of twelve months, apply in writing to the manager of the mine, not less than fifteen full working days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him during that period under sub-sections (*1*) and (*3*).

(*5*) No application for leave made in accordance with the provisions of this section shall ordinarily be refused, unless the authority empowered to grant the leave is of the opinion that owing to the exigencies of the situation the leave should be refused.

(*6*) If any person entitled to leave under this section is discharged from the mine before he has taken or has been allowed to take the entire leave to which he is entitled, the owner, agent or manager of the mine shall pay to him the pay or wages payable under section 51 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

Explanation 1.—For the purposes of this section, a person shall be deemed to have completed a period of continuous service in a mine, notwithstanding any interruption of service during that period brought about by—

(*i*) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of that period, or

(*ii*) a strike, which is not an illegal strike, or

(*iii*) a lock-out, or

(*iv*) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or

(*v*) leave admissible or granted under any other law.

Explanation 2.—Authorised leave shall include any casual absence due to any reasonable cause :

Provided that the person concerned, within a week from the commencement of the absence, gives the reasons for such absence in writing to the owner, agent or manager of the mine, and any such period of authorised leave may include periods of unauthorised leave not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but not weekly days of rest allowed under section 28 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—"Illegal strike" means a strike which is an illegal strike within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947), or of any other law for the time being in force.

52. Wages during leave period.—(*1*) For the leave allowed to a loader, or other person employed below ground on a piece-rate basis, he shall be paid at a rate equal to the daily average of his earnings for the month of December prior to his leave:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average earnings of all persons similarly employed for the same month, and for the purpose of such computation the cash equivalent of the advantage accruing to such persons through the free issue of food grains and any compensation in cash drawn by them during the said month shall be taken into account.

(*2*) For the leave allowed to a person employed in a mine who is paid by the month or week he shall be paid at a rate equal to his normal daily wages during the week preceding his leave, and in computing such wages the cash equivalent of the advantage accruing to him through the free issue of food grains and any compensation in cash drawn by him shall also be taken into account.

53. Payment in advance in certain cases.—Any person employed in a mine who has been allowed leave for not less than ten days in the case of a person paid by the month, and five days, either in the case of a person paid by the week or in the case of a loader, or other person employed below ground on a piece-rate basis, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

54. Power of Inspector to act for an employee.—Any Inspector may institute proceedings on behalf of any person employed in a mine to recover any sum required to be paid by an employer under this Chapter, which has not been paid by the employer.

55. Power to make rules.—The Central Government may, by rules, prescribe the maintenance by owners, agents or managers of mines of registers showing particulars as may be required for the purposes of this Chapter and requiring such registers to be made available for examination by Inspectors.

56. Power to exempt mines.—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

CHAPTER VIII

REGULATIONS, RULES AND BYE-LAWS.

57. Power of Central Government to make regulations.—The Central Government may, by notification in the official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely :—

(*a*) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;

(*d*) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualification;

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;

(*j*) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such women and for limiting the weight of any single load that may be carried by a woman;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance therein to and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(*l*) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

(*m*) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction of pillars and the maintenance of sufficient barriers between mine and mine;

(*n*) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings under rivers, tanks, water-courses, public roads and buildings and for requiring due precaution to be taken against the onrush of water into, outbreak of fire in or premature collapse of any workings;

(*o*) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

(*p*) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling or for other purposes of communication;

(*q*) for providing for the safety of persons present on haulage routes and for restricting the use of certain classes of locomotives undergound;

(*r*) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(*s*) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of, or to result in or to aggravate the collapse of or irruptions of water or ignitions in mines;

(*t*) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents, and managers of

mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*u*) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector;

(*v*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(*w*) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16; and

(*x*) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890), or of any public work or classes of public works which the Central Government may, by general or special order, specify in this behalf.

58. Power of Central Government to make rules.—The Central Government may, by notification in the official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

(*a*) for providing for the appointment of chairman and members of Mining Boards, and for regulating the procedure of such Boards;

(*b*) for prescribing the form of the register referred to in sub-section (*3*) of section 23;

(*c*) for providing for the appointment of Courts of inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such Courts from the manager, owner or agent of the mine concerned;

(*d*) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein;

(*e*) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;

(*f*) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

(*g*) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;

(*h*) for prescribing the form of notices required under section 36, and for requiring such notices to be posted also in specified languages;

(*i*) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(*j*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(*k*) for prescribing the form of the certificate of fitness required by section 40, the conditions subject to which and the circumstances in which they may be granted and the circumstances in which they may be revoked;

(*l*) for prescribing the form of registers required by section 48;

(*m*) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;

(*n*) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(*o*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890);

(*p*) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted;

(*q*) for requiring the provisions and maintenance in mines, wherein more than one hundred and fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;

(*r*) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

(*s*) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified;

(*t*) for requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;

(*u*) for providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management;

(*v*) for prescribing the position, equipment, control, maintenance and functions of central rescue stations;

(*w*) for providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (*s*) in any group or included under clause (*s*) in any specified area, the utilisation of the proceeds thereof for the creation of

a central rescue station fund for such group or area and the administration of such funds;

(*x*) for providing for the formation, training, composition and duties of rescue brigades; and generally for the conduct of rescue work in mines; and

(*y*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

59. Prior publication of regulations and rules.—(*1*) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(*3*) Before the draft of any regulation is published under this section it shall be referred to every Mining Board which is, in the opinion of the Central Government concerned with the subject dealt with by the regulation, and the regulation shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(*4*) No rule shall be made unless the draft has been referred to every Mining Board constituted in the part of the territories to which this Act extends, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same as to the suitability of its provisions.

(*5*) Regulations and rules shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

(*6*) The provisions of sub-sections (*1*), (*2*) and (*4*) shall not apply to the first occasion on which rules referred to in clause (*d*) or clause (*e*) of section 58 are made.

60. Power to make regulations without previous publication.—Notwithstanding anything contained in sub-sections (*1*), (*2*) and (*3*) of section 59, regulations under clause (*i*) and clauses (*k*) to (*s*) excluding clause (*l*) of section 57 may be made without previous publication

and without previous reference to Mining Boards, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.

61. Bye-laws.—(*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(*2*) If any such owner, agent or manager—

(*a*) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient, or

(*ii*) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (*2*), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board, or where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf.

(4) (*a*) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer, or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(*b*) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(*c*) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(*d*) Every objection shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(*e*) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

62. Posting up of extracts from Act, Regulations, etc.—There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER IX.

PENALTIES AND PROCEDURE.

63. Obstruction.—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

64. Falsification of records, etc.—Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, notice, or record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

65. Use of false certificates of fitness.—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 40 a certificate granted to another person under that section,

or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

66. Omission to furnish plans, etc.—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

67. Contravention of provisions regarding employment of labour.—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which contravention is so continued.

68. Penalty for double employment of young persons.—If a child or an adolescent is employed in a mine on any day on which he has already been employed in another mine, his parent or guardian or the person who has the custody of such child or adolescent or who obtains any direct benefit from his wages shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child or adolescent was so employed without the consent or connivance of such parent, guardian or person.

69. Failure to appoint Manager.—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

70. Notice of accidents.—(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period

specified shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

71. Owner, etc., to report to Chief Inspector in certain cases.—Where the owner, agent or manager of mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the Court report the result thereof to the Chief Inspector.

72. Obligation of persons employed in a mine.—No person employed in a mine shall—

(*a*) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein ;

(*b*) wilfully and without reasonable cause do anything likely to endanger himself or others ;

(*c*) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

73. Disobedience of orders.—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with imprisonment fer a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

74. Contravention of law with dangerous results.—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable,—

(*a*) if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both ; or

(*b*) if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or

(*c*) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to one month or with fine which may extend to five hundred rupees, or with both.

(*2*) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented before the decision of the appeal.

75. Prosecution of owner, agent or manager.—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

Provided that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

76. Determination of owner in certain cases.—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated, —

(*a*) in the case of a firm any of its partners,

(*b*) in the case of an association, any of its members,

(*c*) in the case of a public company, any of its directors, or

(*d*) in the case of a private company, any of its shareholders,

who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for purposes of this Act, such partner, member, director or shareholder, as the case may be, shall, so long as he continues to so reside, be deemed to be the owner of the mine for the purposes of this Act, unless notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or shareholder; as the case may be, is received by the Chief Inspector.

77. Exemption of owner, agent or manager from liability in certain cases.—Wher the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf and on giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have that other person brought before the Court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and

(*b*) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that—

(*a*) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;

(*b*) if in spite of due diligence the person alleged as the actual offender cannot be brought before the Court on the date appointed for the hearing of the case, the Court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three

months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the Court, the Court shall proceed to hear the case against the owner, agent or manager, as the case may be.

78. Power of Court to make orders.—(*1*) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the Court may in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the Court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(*2*) Where an order is made under sub-section (*1*), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

79. Limitation of prosecutions.—No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

(*1*) within six months of the date on which the offence is alleged to have been committed, or

(*2*) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

(*3*) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within six months after the date of the publication of the report referred to in sub-section (*4*) of that section,

whichever is later.

80. Cognizance of offences.—No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.—(*1*) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee it may stay the criminal proceedings, and report the matter to the Central Government with a view to such reference being made.

(*2*) On receipt of a report under sub-section (*1*), the Central Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER X.

MISCELLANEOUS.

82. Decision of question whether a mine is under this Act.—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

83. Power to exempt from operation of Act.—The Central Government may, by notification in the official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 45 unless it is also exempted from the operation of all the other provisions of this Act.

84. Power to alter or rescind orders.—The Central Government may reverse or modify any order passed under this Act.

85. Application of Act to mines belonging to Government.—This Act shall apply to mines belonging to the Central or any Provincial Government.

86. Application of certain provisions of Act LXIII of 1948 to mines.—The Central Government may, by notification in the official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (LXIII of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

87. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

88. **Repeal of Act IV of 1923.**—The Indian Mines Act, 1923 (IV of 1923) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The existing Indian Mines Act which relates to the regulation and inspection of mines was passed in 1923. Although it has since been amended in certain respects, the general framework has remained unchanged. Experience of the working of the Act has revealed a number of defects and deficiencies which hamper effective administration. Some of these necessitate new forms of control while others require the tightening up of the existing legal provisions. It has, therefore, been considered necessary to thoroughly overhaul the existing Act.

2. The proposed legislation differs from the existing law in certain respects. The more important features are mentioned below :—

(*i*) At present workshops run by a mine for the maintenance of its machinery and plant in safe and efficient working order are subject to the Factories Act, 1948, which is administered by Provincial Governments. Workers in workshops such as fitters, blacksmiths, welders, electricians and others frequently work for a part of the shift underground and while so employed come within the scope of the Mines Act. It is inconvenient that the same personnel should be subject to two different Acts administered by two different authorities. It is now proposed to bring all personnel engaged solely on work relating to mines within the scope of the Mines Act. For similar reasons it is proposed to bring within the scope of the Mines Act power stations which generate power used wholly in connection with the mine concerned.

(*ii*) Provision has been made in the Bill for the issue of certificates of fitness to adolescents and the appointment of certifying surgeons.

(*iii*) The provisions in the existing Act regarding conservancy and sanitary conveniences are of a general nature. The Bill provides for more definite arrangements for drinking water, latrines, urinals, etc.

(*iv*) It has been made obligatory on the part of the owner, agent or manager of a mine to report the contraction of any of certain notified diseases. Provision for the holding of an enquiry regarding the causes of contraction of a reported disease has also been made.

(*v*) It has also been laid down that first-aid appliances should be made available underground and that they should be kept in charge of qualified personnel.

(*vi*) A new chapter regarding the grant of compensatory holidays and holidays with pay has been included.

(*vii*) The existing Act does not specify the rate of payment for overtime work. In the Bill the rates for overtime has been fixed at 1½ times the ordinary rate of wages in the case of surface workers and at twice the ordinary rate for underground workers. The working hours for all workers, both surface and underground, have been reduced to 48 per week and no worker is to be allowed to work for more than 9 hours a day above ground and 8 hours a day below ground. The provisions in the existing Act permit workers on the surface to work for 54 hours a week or 10 hours a day and workers underground for 9 hours a day.

(*viii*) It is proposed to prohibit after a certain date to be notified by the Central Government the presence of children in any part of a mine where operations connected with, or incidental to, mining processes are being carried on. The intention is that the presence of children at mines should be prohibited as soon as arrangements for the provision of elementary education can be made in collieries.

(*ix*) The age limit of persons employed underground has been raised from 17 to 18 years.

(*x*) At present the penalty for violation of the provisions of the Act is only fine. It is proposed to provide that the punishment may be imprisonment or fine or both. This will bring the penalty provisions in line with the penalties prescribed in the Factories Act, 1948.

(*xi*) The employment of women underground is already prohibited. This prohibition will be continued. The employment of women on the surface between the hours of 7 P.M. and 6 A.M. will also be prohibited, but Provincial Governments will be empowered to relax these limits but not so as to authorise working between the hours of 10 P.M. and 5 A.M.

(*xii*) Opportunity has also been taken to include in the Bill provisions relating to health, safety and comfort of workers somewhat on the lines of the Factories Act, 1948.

3. It is hoped that when the Bill is passed into law, the provisions regulating labour and safety in mines will largely be on the lines of those contained in the Factories Act, 1948.

NEW DELHI;
The 22nd November, 1949.

JAGJIVAN RAM.

A. BILL* No. 63 OF 1949.

A Bill to provide for the administration of evacuee property and for certain matters connected therewith.

WHEREAS it is expedient to provide for the administration of evacuee property and for certain matters connected therewith;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title and extent.— (1) This Act may be called the Administration of Evacuee Property Act, 1949.

(2) It extends to all the Provinces of India (except Assam and West Bengal), and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "allotment" means the grant by the Custodian, or any other person duly authorised by the Custodian in this behalf, of a temporary right of use and occupation of any immoveable property of an evacuee to any person otherwise than by way of lease;

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* In pursuance of sub-section (3) of section 299 of the Government of India Act, 1935, the Governor-General has given his previous sanction to the introduction of the Bill in the Constituent Assembly of India (Legislative).

(*b*) "Custodian-General" means the Custodian-General of Evacuee Property in India appointed by the Central Government under section 5;

(*c*) "Custodian" means the Custodian for the Province, and includes any Additional, Deputy or Assistant Custodian of evacuee property appointed for that Province;

(*d*) "evacuee" means any person,—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has, on or after the 1st day of March, 1947, left, any place in a Province for any place outside the territories now forming part of India, or

(*ii*) who is resident in any place now forming part of Pakistan and who for that reason is unable to occupy, supervise or manage in person his property in any part of the territories to which this Act extends, or whose property in any part of the said territories has ceased to be occupied, supervised or managed by any person or is being occupied, supervised or managed by an unauthorised person, or

(*iii*) who has, after the 14th day of August, 1947, acquired by way of allotment or by means of unlawful occupation or other illegal means any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan;

(*e*) "intending evacuee" means any person who, after the 14th day of August, 1947,—

(*i*) has transferred to Pakistan his assets or any part thereof situated in any part of the territories to which this Act extends:

Provided that the transfer to Pakistan of any reasonable sum of money, for the purpose of financing any transaction in the ordinary course of his trade or for the maintenance of any member of the family of such person shall not be deemed to be a transfer of assets within the meaning of this sub-clause, or

(*ii*) has acquired, if the acquisition has been made in person, in any mode other than any of the modes specified in sub-clause (*iii*) of clause (*d*) of section 2, or, if the acquisition has been made by or through a member of his family, in any mode whatsoever, any right to, interest in or benefit

from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan, or

(*iii*) has, by the execution of any document of transfer in writing, whether registered or not, or by means of any other document in writing, sought to effect an exchange of the whole or any part of his property situated in any part of the territories to which this Act extends, with any property situated in Pakistan;

(*f*) "evacuee property" means any property in which an evacuee has any right or interest (whether personally or as a trustee or as a beneficiary or in any other capacity), and includes any property—

(*1*) which has been obtained by any person from an evacuee after the 14th day of August, 1947, by any mode of transfer, unless such transfer has been confirmed by the Custodian, or

(*2*) belonging to any person who, after the 18th day of October, 1949 has done or does any of the acts specified in clause (*e*) of section 2, or in which any such person has any right or interest, to the extent of such right or interest,

but does not include—

(*i*) any ornament and any wearing apparel, cooking vessels or other household effects in the immediate possession of an evacuee;

(*ii*) any property belonging to a joint-stock company, the registered office of which was situated before the 15th day of August, 1947, in any place now forming part of Pakistan and continues to be so situated after the said date;

(*g*) "member of the family" means any member of the family of an intending evacuee who is wholly dependent upon the earnings of such evacuee for the provision of the ordinary necessaries of life or who shares with such evacuee in the ordinary expenses of the household to which they jointly belong or who owns property or carries on business jointly with such evacuee;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "property" means property of any kind, and includes any right or interest in such property, but does not include a mere right to sue or a cash deposit in a bank;

(*j*) "unauthorised person" means any person (whether duly empowered in this behalf by the evacuee or otherwise) who, after the 14th day of August, 1947, has been occupying, supervising or managing the property of an evacuee without the approval of the Custodian.

3. Rule of construction in applying Act to Acceding States.—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to the Provinces shall be construed as references to that Acceding State;

(*b*) references to any Provincial Government shall be construed as references to the Government of that Acceding State;

(*c*) references to the official Gazette shall be considered as references to the appropriate official publication of that Acceding State; and

(*d*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding law in force in that State.

4. Act to override other laws.—The provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

CHAPTER II.

EVACUEE PROPERTY AND VESTING THEREOF IN THE CUSTODIAN.

5. Appointment of Custodian-General.—The Central Government may, by notification in the official Gazette, appoint a person to be the Custodian-General of Evacuee Property in India for the purpose of discharging the duties imposed on the Custodian-General by or under this Act.

6. Appointment of Custodians, etc.—(1) The Provincial Government may, by notification in the official Gazette, appoint for the Province a Custodian, and as many Additional Deputy or Assistant Custodians of evacuee property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act.

(2) Subject to the provisions of this Act all Custodians, Additional, Deputy or Assistant Custodians of evacuee property shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian-General.

(3) Subject to the provisions of sub-section (2), Additional, Deputy and Assistant Custodians shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian for the Province, but the Provincial Government may, by general or special order, provide for the distribution of work among them.

7. Notification of evacuee property.—(1) Where the custodian is of opinion that any property is evacuee property within the meaning of this Act, he may, after causing notice thereof to be given in such manner as may be prescribed to the persons interested, and after holding such inquiry into the matter as the circumstances of the case permit, pass an order declaring any such property to be evacuee property.

(2) Where a notice has been issued under sub-section (1) in respect of any property, such property shall, pending the determination of the question whether it is evacuee property or otherwise, be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

(3) The Custodian shall, from time to time, notify, either by publication in the official Gazette or in such other manner as may be prescribed, all properties declared by him to be evacuee propertie under sub-section (1).

8. Vesting of evacuee property in the Custodian.—(1) Any property declared to be evacuee property under section 7 shall vest in the Custodian.

(2) Where immediately before the commencement of this Act any evacuee property in a Province had vested in any person exercising the powers of a Custodian under any law then in force, the evacuee property shall, on the commencement of this Act, be deemed to have vested in the Custodian appointed or deemed to have been appointed for the Province under this Act, and shall continue so to vest.

(3) Where any property in a Province belonging to a joint stock company had vested in any person exercising the powers of a Custodian under any law previously in force, then nothing contained in clause (*f*) of section 2 shall affect the operation of sub-section (2),

but the Provincial Government may, by notification in the official Gazette, direct that the Custodian shall be divested of any such property in such manner and after such period as may be specified in the notification.

(4) Where after any evacuee property has vested in the Custodian any person is in possession thereof, he shall be deemed to be holding it on behalf of the Custodian and shall on demand surrender possession of it to the Custodian or to any other person duly authorised by him in this behalf.

9. Power of Custodian to take possession of evacuee property vested in him.—If any person in possession of any evacuee property refuses or fails on demand to surrender possession thereof to the Custodian or to any person duly authorised by him in this behalf, the Custodian may use or cause to be used such force as may be necessary for taking possession of such property and may, for this purpose, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or break open any lock, bolt or any door or do any other act necessary for the said purpose.

10. Powers and duties of the Custodian generally.—(1) Subject to the provisions of any rules that may be made in this behalf, the Custodian may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and managing any evacuee property which has vested in him and may, for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Custodian may, for any of the purposes aforesaid,—

(*a*) carry on the business of the evacuee;

(*b*) appoint a manager for the property of the evacuee or for carrying on any business or undertaking of the evacuee and authorise the manager to exercise any of the powers of the Custodian under this section;

(*c*) enter, or authorise any other person to enter, any land or premises to inspect any evacuee property;

(*d*) take all such measures as may be necessary to keep any evacuee property in good repair;

(*e*) complete any building which has vested in him and which requires to be completed;

(*f*) require any person, notwithstanding anything to the contrary contained in any other law for the time being in force relating to the disclosure of any information by a public servant or any other person, to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Custodian considers necessary for the discharge of his duties under this Act;

(*g*) require any banking company to furnish such information as the Custodian may require with respect to any remittance made by any person to any place outside India after the 14th day of August, 1947;

(*h*) search, or authorise any other person to search, any building or place in which the Custodian has reason to believe that any evacuee property or any document tending to show that any person is an evacuee or that any property is evacuee property is being kept or concealed and take possession thereof;

(*i*) take such action as may be necessary for the recovery of any debt due to the evacuee;

(*j*) institute, defend or continue any legal proceeding in any civil or revenue Court on behalf of the evacuee or refer any dispute between the evacuee and any other person to arbitration or compromise any claims, debts or liabilities on behalf of the evacuee;

(*k*) raise on the security of the evacuee property such loans as may be necessary;

(*l*) in any case where the evacuee property which has vested in the Custodian consists of a share or shares in a company, exercise, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913) or in the articles of association of the company, the same rights in the matter of making a requisition for the convening of a meeting or of presenting a petition to the Court under the provisions of the Indian Companies Act, 1913, or the articles of association of the company or in any other matter as the evacuee shareholder himself could have done had he been present, although the name of the Custodian does not appear in the register of members of the company;

(*m*) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or

of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person ;

(*n*) pay to the evacuee, or to any member of his family or to any other person as in the opinion of the Custodian is entitled thereto, any sums of money out of the funds in his possession ;

(*o*) transfer in any manner whatsoever any evacuee property, notwithstanding anything to the contrary contained in any law or agreement relating thereto :

Provided that the Custodian shall not sell any immovable property or any business or other undertaking of the evacuee, except with the previous approval of the Custodian-General ;

(*p*) invest any money held by him in any of the securities approved by the Central Government or in the prescribed manner ;

(*q*) delegate, by general or special order, all or any of his functions under this Act to such officers or persons as he thinks fit :

Provided that the Custodian shall not delegate any of his functions under clause (*g*) or clause (*h*) to any officer or person below the rank of a Deputy Custodian.

11. Special provisions with respect to certain trust properties.— (*1*) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, the property shall remain vested in the Custodian only until such time as fresh trustees are appointed in the manner provided by law, and pending the appointment of fresh trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust.

(*2*) In respect of any *Wakf-alal-aulad*,—

(*a*) where the mutawalli is an evacuee, the property forming the subject-matter of the *wakf* shall vest in the Custodian subject to the rights of the beneficiaries under the *wakf*, if any, who are not evacuees ;

(*b*) where not all the beneficiaries are evacuees, the rights and interests of such of the beneficiaries as are evacuees shall alone vest in the Custodian.

12. Power to vary or cancel leases or allotments of evacuee property.— (*1*) Notwithstanding anything contained in any other law for the time being in force, the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement

under which any evacuee property is held or occupied by any person, whether such allotment, lease or agreement was granted or entered into before or after the commencement of this Act.

(2) Where by reason of any action taken under sub-section (1), any person has ceased to be entitled to possession of any evacuee property, he shall on demand by the Custodian surrender possession of such property to the Custodian or to any person duly authorised by him in this behalf.

(3) If any person fails to surrender possession of any property on demand under sub-section (2), the Custodian may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property in the manner provided in section 9.

13. Payments to Custodian to be valid discharge.—(1) Any amount due to any evacuee in respect of any property which has vested in the Custodian or in respect of any transaction entered into by the evacuee, shall be paid to the Custodian by the person liable to pay the same.

(2) Any payment made otherwise than in accordance with sub-section (1) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Custodian to enforce such obligation against any such person.

14. Recouping of expenditure by Custodian.—Any expenditure incurred by the Custodian in the exercise of any power conferred by or under this Act shall, in relation to any evacuee property in respect of which it has been incurred, be a charge on such property and shall, subject to the provisions of section 48, have priority over all other charges on the property, and such expenditure may be met or recouped by the Custodian out of the income accruing from such property or the sale proceeds thereof.

15. Maintenance of accounts by Custodian.—(1) The Custodian shall maintain a separate account of the property of each evacuee possession whereof has been taken by him, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(2) The accounts shall be maintained in such form and in such manner as may be prescribed.

(3) The Provincial Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

16. Restoration of property.—(*1*) The Custodian may, on application made to him in this behalf in writing by an evacuee or any person claiming to be the heir of an evacuee, restore, subject to such terms and conditions as he may think fit to impose, the evacuee property to which the evacuee or other person would have been entitled if this Act were not in force:

Provided that the applicant produces in support of his application a certificate from the Central Government, or from any person authorised by it in this behalf, to the effect that the evacuee property may be so restored if the applicant is otherwise entitled thereto.

(*2*) On receipt of an application under sub-section (*1*), the Custodian shall cause public notice thereof to be given in the prescribed manner and, after holding a summary inquiry into the claim in such manner as may be prescribed, may—

(*a*) make a formal order declaring that the property shall be restored to the applicant; or

(*b*) reject the application; or

(*c*) refer the applicant to a civil Court for the determination of his claim and title to the property:

Provided that no order for restoration shall be made under this section, unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.

(*3*) Upon the restoration of the property to the evacuee or to the heir, as the case may be, the Custodian shall stand absolved of all responsibilities in respect of the property so restored, but such restoration shall not prejudice the rights, if any, in respect of the property which any other person may be entitled to enforce against the person to whom the property has been so restored:

Provided that every lease granted in respect of the property by or on behalf of the Custodian shall have effect against the person to whom restoration is made until such lease is determined by lapse of time or by operation of law.

(*4*) The Custodian shall, on demand, furnish to the evacuee or to the heir, as the case may be, a statement containing an abstract of the account of the income received and expenditure incurred in respect of the property.

CHAPTER III.

CERTAIN CONSEQUENCES OF PROPERTY VESTING IN CUSTODIAN.

17. Exemption from attachment, sale, etc.—(*1*) Save as otherwise expressly provided in this Act, no property which has vested in the Custodian shall be liable to attachment, distress or sale in execution of an order of a Court or of any other authority, and no injunction in respect of any such property shall be granted by any Court or other authority.

(*2*) Save as otherwise expressly provided in this Act, any attachment or injunction subsisting on the commencement of this Act in respect of any evacuee property which has vested in the Custodian shall cease to have effect on such commencement, and any transfer of evacuee property under orders of a Court or any other authority made after the 14th day of August, 1947, shall be set aside, if an application is made to such Court or authority by or at the instance of the Custodian within three months from the commencement of this Act.

18. Occupancy or tenancy right not to be extinguished.—Nothing contained in any other law for the time being in force shall be deemed to extinguish the right of occupancy in any land of an evacuee which has vested in the Custodian and, notwithstanding anything contained in any such law, neither the evacuee nor the Custodian, whether as an occupancy tenant or as a tenant for a fixed term of any land, shall be liable to be ejected or deemed to have become so liable on any ground whatsoever for any default of the Custodian.

CHAPTER IV.

PROPERTY OF INTENDING EVACUEES.

19. Declaration of person as intending evacuee.—(*1*) Where the Custodian has reason to believe that a person is an intending evacuee, he may, by notice served in the prescribed manner, call upon such person to show cause why he should not be declared an intending evacuee, and shall, after holding such inquiry into the matter as the circumstances thereof permit, and after taking such evidence as may be produced by or on behalf of the person showing cause, pass an order (stating the reasons therefor) either declaring such person to be an intending evacuee or closing the case.